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Foster Care Overview

Welcome to being a foster parent in Wisconsin! The first chapter of this handbook starts with basic information about the foster care system in Wisconsin to help you understand how children come into foster care, why they are there, and the rules that have been created to protect them. This chapter also explains information about court hearings and reviews and what permanency planning means. Finally, it includes descriptions of the different people connected to the child welfare and court systems who may work with a child or family.

Please note that this chapter provides general information about foster care in Wisconsin. Since local agencies have some flexibility about how their foster care programs work, things might look a little different from agency to agency or county to county. This chapter is intended to give you information to understand the basics about the child welfare system, who is involved with it, and how it works.

WHAT IS THE PURPOSE OF FOSTER CARE?

Foster care is 24-hour care provided by licensed foster parents for children who cannot safely live with their birth parents.

Children are placed in foster care for various reasons. Some examples are: a child who has been abandoned, a child who is a victim of abuse or neglect, a child whose parent is incarcerated or hospitalized, or a child who has committed a delinquent act.

Generally, placement in foster care is temporary and intended to give birth families time to make changes necessary for the child to live safely back in his/her home. Most children in foster care return home to their families. Others find permanence through adoption and other means.

HOW CHILDREN ENTER FOSTER CARE

In order to visualize the concept of out of home care, it is best to think of a tree that splits into two main trunks. While the families involved in the system start out with similarities, out of home placement can occur due to basically two reasons. In this visualization, one trunk of the tree symbolizes child protective services, while the other symbolizes juvenile protective or delinquency services, also referred to as juvenile justice. Each reason (or trunk) has it's own laws and guidelines, resources and services, that form the branches of best practice. Because each family is ultimately different, the path (or branch) followed will be chosen based on the family's needs. Sometimes the branches will cross and intertwine, just as services and resources provided to the family.

Child Protective Services

Children enter the foster care system because the local child welfare agency in their area has determined that they are not safe in their homes. This section describes the general process that takes place in order for an agency to determine if a child needs to be removed from his or her home.

Step 1: A report comes in to the agency

The process of determining that a child isn't safe usually starts with someone in the community making a report to the child welfare agency with a concern about a child. Some professionals in the community are mandated reporters according to state law (s. 48.981(2), Stats.). This means that in the course of their professional work, they are required to contact a child welfare agency if they believe a child has been abused or neglected or has been threatened with abuse or neglect and that they believe the abuse or neglect will occur. Mandated reporters include social workers, teachers, professional counselors, police or law enforcement personnel, nurses, court-appointed special advocates (CASAs), and many other professionals.

Step 2: The agency makes a decision about the report

The child welfare agency then makes a decision about whether the report necessitates an investigation to determine if a child was abused or neglected. This is called screening a report in or out, also known as "Access" since the agency is determining which cases access the child protective services system. If the report is screened out, the agency has determined that the situation did not rise to the level of cases that the agency seeks to serve for child protective services interventions. If the report is screened in, the agency chooses to investigate the situation to make a formal determination of whether abuse or neglect has occurred or is likely to occur.

State standards, called the Access Standards, require agencies to take specific steps to determine whether a report is screened in or out. The memo that issued the standards and the Access Standards attached to the memo can be found online at the following web site:

http://www.dhfs.state.wi.us/dcfs_info/num_memos/2005/2005-14.htm

Step 3: The agency conducts an investigation

At this point, the agency has decided that it needs more information about the situation to determine whether the child is safe. The agency will conduct a safety assessment to determine if there are immediate threats to a child's safety and an initial assessment to find out more information about the situation as a whole. If there are safety concerns, the agency will determine whether safety can be managed in the home or the child needs to be removed from the home.

After the investigation has been completed, the agency makes a case determination based upon the information they have gathered.

The findings of an investigation could be one of the following:

- ❖ Substantiated (there is a large amount of evidence that the child was harmed).
- ❖ Unsubstantiated (there wasn't enough information to demonstrate that a child was unsafe).
- ❖ Likely to occur (that information indicated a child was likely to be unsafe in the future).

There are state standards that establish specific requirements for agencies to follow when investigating child abuse or neglect situations. These standards are not available online yet, so for a copy of the Investigation Standards, contact the Division of Children and Family Services at (608) 266-3036 or the Foster Care and Adoption Resource Center at 1-800-947-8074 or info@wifostercareandadoption.org

Step 4: Services are provided to the family

If an agency decides to remove a child because the child is not safe, the agency will provide services to the parents in an effort to reunify the family. Some agencies provide services to families who do not have their children removed but may have some safety concerns. Sometimes children are removed from their homes after an agency has begun providing services to their families, if the situation changes and the agency determines that the child cannot remain safely in the home. Determining a child's safety is an ongoing responsibility of child welfare workers.

Juvenile Justice System

The placement of a youth based on Chapter 938 (Juvenile Justice Code) provisions is based more on the safety of the community. Again, as families in both systems share many similarities, there are generally parent factors that are influencing the child's behavior and functioning in the home and community. A parent's inability to provide adequate supervision, incarceration, mental health issues, alcohol or drug abuse issues in the home, etc. that are coupled with the challenging behaviors of the youth are common factors leading to the need for out-of-home placement. Children may be supervised under the juvenile justice system due to the act of committing a law violation prior to age 17 years (delinquency) or under a juvenile protective services order due to uncontrollable behavior in the home or school prior to age 18 years (runaway, truancy, committing a delinquent act before age 10 years, or not responsible due to mental disease or defect).

The process for juvenile services generally starts with a report from the community of a law violation or from a parent or school about uncontrollable or truant behavior. If the criminal act is significant, the juvenile may be placed in a temporary non-secure environment, such as a shelter care facility, or in secure detention during the initial assessment phase. When determined to be appropriate, the child may be released back into the community to a parent or relative, or placed in foster care by order of the Court.

Foster care placement may also occur if a child is already under an order of delinquency, or protection or services, and the child does not comply with the rules of supervision, commits another criminal act, runs away, or engages in a significant conflict in the home that requires assistance from the police.

Foster care placement for children in the juvenile justice system does not generally occur on an emergency basis, as most juveniles will be placed initially in a shelter care facility first. There may be times that foster parents are contacted regarding an emergency placement in some circumstances, perhaps if the shelter care is full, or the agency determines that an emergency foster home is most appropriate.

Summary:

Some families may be involved with both systems at the same time, due to the needs of the different family members. Sometimes a child under a delinquency order may become a victim of abuse or neglect, leading to the systems connecting for a period of time. The actual reason that the child is in foster care placement may be due to child protective reasons (such as sexual abuse) versus involvement in delinquent activities.

PERMANENCY PLANNING

The federal Adoption and Safe Families Act established permanency as one of the primary goals for children who are removed from their parents. When a child has been placed outside of his or her home, the child welfare agency must work with the birth family either to change the situation so the child can return home safely or find another permanent living arrangement for the child. In most cases, the permanency plan for a child is to return to the birth family. This is not always possible, so the agency may identify another permanence goal for the child such as placement with a relative, adoption, or another living situation.

Permanency also refers to the importance of continuing family relationships and connections while the child is in out-of-home placement.

Permanency planning is the process that the case worker goes through to ensure that children are in safe and nurturing family relationships that can be expected to last a lifetime. The child's **permanency plan** is the document that agencies must submit to the court that identifies what the permanence goal is for the child, what people involved with the case must do in order to achieve the permanence goal, and when permanence is expected to be achieved.

Concurrent Planning

Concurrent planning is a process in which the case worker has identified two permanence goals and is actively working on both goals at the same time. Concurrent plans are identified so that, in case the first permanence goal is not possible, the child will quickly find another permanent living arrangement. For example, a foster child's permanence goal could be return home, with the concurrent goal of adoption by the foster family in case a return home cannot happen.

Concurrent planning can be a difficult process to understand, especially if a family has been preparing to care for the foster child and the agency and court decide that the child will be reunified. If you have questions about concurrent planning, ask the child's case worker. It also may be helpful to talk about the process of concurrent planning with other foster and adoptive parents.

AVENUES TO PERMANENCE

The most common ways children in foster achieve permanence are through reunification, placement with relatives, guardianship, and adoption.

Reunification

The best long-term plan for most children is to return to their birth families if their families can safely care for them. Most birth families can develop the skills to safely care for their children. The strengths and potential of parents need to be maximized and supported.

When working toward the goal of reunification, early and regular interaction between foster children and their parents, siblings, and extended family is essential.

It is crucial that the adults in a foster child's life work together to reunify the child with his or her family. This includes foster parents, the child's parents, attorneys, judges, social workers, therapists, and the child.

Even if foster parents do not agree with the agency, they must follow the agency's plan for the child. If foster parents have serious concerns about the birth parents' ability to safely care for the child, they should make the agency aware of their concerns.

For more information about a foster parent's responsibility to cooperate with the licensing agency, see section 56.05(1) (c) 3 in foster home licensing requirements.

Placement with a Fit and Willing Relative

Agencies are required to consider relatives as placement options for children entering the foster care system. One of the options for permanence for a child is placement with a "fit and willing relative." A fit and willing relative is a relative, as defined by s. 48.02(15), Stats., who has expressed a willingness to provide care for a child until the child is 18 years of age, has the capacity to provide for the child until the child's 18th birthday, has the willingness and capacity to protect the child from maltreatment, and has successfully completed a criminal background check. Agencies are working to better identify and include relatives in the lives of children in foster care.

There is a good chance that you may be asked to work with relatives to achieve permanence for a child or help a child maintain connections to their relatives in addition to the child's parents.

Guardianship:

Guardianship offers a permanent living arrangement in cases where reunification or adoption may not be appropriate or desired.

Some families may choose guardianship over adoption to avoid permanently changing established family roles—for example, to prevent a grandmother from legally becoming a child's mother. Some children and adolescents may not want to permanently terminate their legal relationships with their parents. If parents are disabled or ill, and have difficulty caring for their children, guardianship may be preferred over termination of parental rights which legally and permanently ends a parent's rights to his or her child. There may also be cultural considerations that make termination of parental rights less attractive. Relative guardianships can keep children connected to their family and cultural roots.

Adoption

In cases where reunification efforts seem likely to fail, agencies will request involvement of a State Permanency Consultant. These are social workers employed by the Wisconsin Department of Health and Family Services in the Division of Children and Family Services. These workers may attend staffing meetings and reviews for the families. Simply put, they are “gearing up” in case an adoptive family for the child needs to be found.

When children are unable to be reunited with their parents or extended family members, there may be a decision to file a petition to terminate the rights of the parents. This may be done voluntarily (filed by the parent) or involuntarily (filed by the agency). The process of termination of parental rights is quite complicated, and social workers will explain this in more detail if it occurs with a foster child placed in your home. Agencies do not take this decision lightly, and you should know that termination of rights only occurs by order of the court, and needs to meet legal requirements and be in the best interest of the child. The process can be long and very emotional for all parties involved.

When parental rights are terminated, custody and guardianship of the child is ordered to the State of Wisconsin, and the child's case will then be supervised by the State Permanency Consultant. It is important for foster parents to know that the county agency will no longer be responsible for payment or services for the child and all decisions will be made by the State Permanency Consultant.

The major decision made by the State Permanency Consultant concerns the adoption of the child. In general, if the foster family expresses a desire to adopt the foster child, the foster family will be considered for adoptive placement. You must recognize that the decision about the adoptive placement ultimately lies with the State adoption staff, who will complete an assessment of your family in order to determine if you are the best match for adoption. Some factors that may be considered in the selection of the adoptive home are the child's relationship with your family, your ability to meet the child's future needs, the need to be placed with siblings, or need to be placed outside the area where biological relatives reside. If the child becomes an adoptive placement in the foster home, the foster home may not be able to accept new foster care placements until the adoption has stabilized. There is no rule that prevents new foster children from being placed, however best practice involves the licensing agency and the State staff determining together whether new placements would be disruptive to the adoptive child.

The adoptive family assessment process may be completed by the State Permanency Consultant, or may be referred to a partner agency that contracts with the State. Foster families interested in adopting the child would be informed of the process for completing the adoptive assessment.

For more information about the Special Needs Adoption Process, go to the Wisconsin Department of Health and Family Services Website- Adoption Section at <http://dhfs.wisconsin.gov/children/adoption/ADOPTSNC.htm> or the Foster Care and Adoption Resource Center at wifostercareandadoption.org or 1-800-947-8074.

Note

The adoption procedures described above relate to non-Native American children. For Native American children, please refer to the Indian Child Welfare Act description in the appendix.

ROLES IN CARING FOR FOSTER CHILDREN

When a child is placed in foster care those involved in the process typically include: the child welfare agency, as appropriate Native American tribe, foster parents, and birth parents all have roles to play in helping care for and establish permanency for the child. Only through cooperative efforts by all parties can services be provided to meet the child's needs.

Some of the roles are shared by all people involved with the child, but there are also responsibilities that are unique to each person. Ultimately, all people working with the child should be focused on the child's safety, permanence, and well-being. Foster parents provide a nurturing environment; the child welfare agency provides services necessary to the child, foster parents, and birth parents; and the birth parents participate in and provide support for the child.

Role of the foster parent(s):

You play a central and irreplaceable role in the child welfare system. Although your primary task is to temporarily care for and nurture a child until plans can be made for the child's future, your role involves much more. Foster parenting also means working in partnership with the agency, as appropriate Native American tribe and birth family to support the child during a difficult time. When the time comes, foster parenting also means preparing the child for return to his or her birth parents or relatives, adoption, or other planned living arrangement.

You contribute valuable information about the child as you work closely with the case worker, participate in meetings about the child, and communicate with the birth parents. You are often the main source of information about how a child is adjusting to the separation from home, interacting with other children, and performing in school.

In your individual role, you are expected to comply with the agency requirements, meet foster home licensing standards, and communicate any important information about the child with the case worker, birth parents and as appropriate Native American tribe.

Role of the birth parents/family:

Birth parents have the responsibility to meet the goals established in the permanency plan and court order and demonstrate that they can safely care for their child.

Many birth parents work with the child welfare agency and as appropriate Native American tribe during the removal and return of their child to their home. During that period, birth parents are encouraged to maintain regular contact with the agency and as appropriate Indian Child Welfare worker and actively work to improve the conditions that led to the child's placement. Parental cooperation and participation in the placement of their child in foster care is essential in helping to relieve the child's fears, anger, and guilt about separation from them.

Role of the child's case worker

The case worker has the responsibility for guiding the partners in decision making concerning the child and presenting information to the court about the child and family. As an employee of agency, the case worker has the duty to plan for the child during the child's foster care placement. The agency worker functions as a facilitator in meeting the needs of the child and all who are involved in helping the child.

The agency has specific responsibilities to the birth parents of the child in placement. Because your role as a foster parent is caring for the child, you will often be an active participant in helping the agency meet these responsibilities.

The specific responsibilities of the case worker include:

- ❖ Preserving and strengthening the parent-child relationship during the time a child is in foster care
- ❖ Helping the birth parents perform their parental role during the time the child is in foster care
- ❖ Meeting statutory and court requirements for case planning and permanency planning
- ❖ Finding a permanent and safe living arrangement for the child
- ❖ Working with Native American Tribes as outlined by the federal Indian Child Welfare Act.

Role of the Native American Tribe:

Native American tribes are sovereign nations under federal law which means that they have the ability to create their own laws and regulations. The Indian Child Welfare Act gives each tribe discretion as to when and how they will become involved in Child Welfare proceedings regarding a Native American child and family based on their specific Tribal laws and policies. The child welfare agency (in Wisconsin, it is usually the county) has the responsibility of determining whether the family members they are investigating are members of a tribe and to inform the applicable tribe as soon as possible as to the actions the agency will be taking. The tribe decides how and when they will become involved with the child and family which may involve a request to transfer the case to tribal court. It is important to understand the critical role that a Native American tribe plays in the lives of its members and that each tribe has its own set of customs, beliefs and traditions.

Role of the foster care coordinator or foster home licensing worker:

Foster Care Coordinators have the primary responsibility of "managing" foster homes.

Typical foster care coordinator job roles include:

- ❖ **Recruiting** new foster parents
- ❖ **Licensing** foster homes
- ❖ **Matching children** who need placement with an appropriate foster home (or other program)
- ❖ **Training** foster parents and agency workers
- ❖ **Supporting** foster parents and agency workers

Foster Care Coordinators also develop a system of handling emergency placements, which may include utilizing receiving homes or maintaining a list of foster parents who would take a child immediately if needed. Some Coordinators develop a respite care system for foster families and birth families. In addition, some Coordinators develop treatment and independent living plans to meet the unique needs children in foster care may have. Finally, Foster Care Coordinators work with other programs, including group homes and residential care centers, to locate placements for children who cannot be placed safely in foster homes.

It is the responsibility of the Foster Care Coordinator to ensure that foster families comply with the rules and policies that govern the foster care program. Coordinators work with foster families to address concerns regarding violations of the licensing code and agency policies, as well as manage complaints or concerns that have been brought to the agency's attention.

The role of the Foster Care Coordinator can be different for each agency. Some Coordinators have the sole or primary responsibility of managing their agency's foster care program, while others may manage the program as one small part of their job. Some agencies contract foster care services out to other agencies.

Role of Court Professionals:

Judge

The Judge presides over the court and makes decisions regarding the child's case according to the facts of the case and the law (statutes).

Guardian ad litem

A child's Guardian ad litem (GAL) is a person appointed by the court to protect the rights and advocate the best interests of a child under 12 years old involved in a court proceeding resulting from an allegation of child abuse or neglect. The Guardian ad litem makes independent recommendations to the court and is required to be an advocate for the best interest of the child. Children 12 years of age and older are entitled to representation not by a GAL but by adversary counsel who must (cc) represent the child's wishes.

Court-Appointed Special Advocate

Court-appointed Special Advocates (CASA) are volunteers who act as the voice for children in the court system. Appointed by a judge, a CASA volunteer is specially trained to speak out for the best interest of the child throughout the court process. CASAs are trained volunteer community members who are appointed by a judge to advocate, on a one-to-one basis, for a child who has been removed from home due to abuse, neglect, or abandonment. The volunteer gets to know the child and then lets the judge and others (cc) in the child welfare system know the child's perspective and the child's needs.

Corporation Counsel

The attorney who represents the county in all actions and proceedings brought by or against it. A county's corporation counsel may also represent the public in protective service matters, certain juvenile matters, and guardianships for county hospital patients and mental health commitments. In some counties, the District Attorney's Office may handle child abuse or neglect and termination of parents rights proceedings rather than the Corporation Counsel.

District Attorney

The District Attorney is responsible for representing the interests (cc) of the public in various proceedings including child abuse and neglect and termination of parental rights proceedings. In some counties, the Corporation Counsel may represent the interest of the public. Representing the public means the attorney protects the community's interest in preventing child abuse and neglect and ensuring public safety by asking the judge to enforce the law through a court proceeding. (cc)

Defense attorney (potentially legal counsel for the birth family)

Defense attorney is a broad term used to describe the lawyer who represents an individual who is accused of something.

Public Defender (potentially legal counsel for the birth family)

A public defender is a lawyer employed by the State of Wisconsin to represent the interests of certain parties, typically to act as defense council. In most child welfare cases, the public defender is representing the person who abused or neglected the child. In juvenile justice cases, the public defender often represents the juvenile.

Role of Mental Health and Support Workers:

Each agency will use and interact with mental health or supportive professionals in different ways. Here are some of the professionals who may have a role in the permanency plan for children in foster care.

Psychiatrist

A psychiatrist is a medical doctor with specialty training in addressing mental health concerns. Psychiatrists typically meet with foster children and significant caregivers when a specific assessment is required regarding the mental health diagnosis of a child and to determine if the child needs medication to manage their behaviors. If medication is needed the psychiatrist will prescribe the appropriate medications and ask to see children for follow up appointments. These appointments are typically very short and intended only to discuss how the medications are affecting behavior or any side effects from the medications they prescribe.

Psychotherapist or Counselor

A psychotherapist is a professional who has a Master's degree or Doctoral degree in social work, psychology, professional counseling, or marriage and family therapy. Psychotherapists work with the foster child, siblings and significant caregivers (both birth parents and foster parents) to address emotional, behavioral, and other presenting mental health needs. Psychotherapy appointments are typically an hour long and may involve the foster child and significant caregivers during the appointment or the appointment may be broken up to allow the child or caregivers an opportunity to talk with the psychotherapist alone.

Parent Aide(s)

A parent aide is typically assigned to work with birth parents on the things that led to the removal of their children. Parent aides might be involved during times of family interaction to help guide the birth parent around parenting choices and decisions.

Mentor(s)

Mentors are typically involved with the foster child. Their role is to provide the child with opportunities to explore recreational or other positive social outlets that the child can build on as they grow.

RULES THAT GOVERN FOSTER CARE

Sometimes foster parents wonder why agencies or workers have to make certain decisions, and sometimes foster parents may not understand why they have to do certain things, to their home for example, in order to be a foster parent. This section describes some of the regulations agencies and foster parents have to obey certain and the rationale behind it.

Wisconsin is known as a state with strong local government and local control, and child welfare services are very similar. The state Division of Children and Family Services (DCFS) within the Department of Health and Family Services creates statewide policies and requirements, and local agencies often have flexibility in how they apply and enact state policies. All agencies, at both the state and local levels, must follow requirements established in federal laws.

Child welfare agencies have many levels of requirements that must be followed. We have included descriptions of the most important federal and state regulations in the Appendix of this handbook.

Information in the Appendix about the following laws and regulations:

- ❖ Adoption Assistance and Child Welfare Act of 1980 which established “reasonable efforts” requirements.
- ❖ Indian Child Welfare Act (ICWA) which established protections for Indian children and families.
- ❖ Adoption and Safe Families Act created in response to foster children remaining in foster care for many years. Expectations were established for agencies to find permanent living arrangements for children in shorter time frames.
- ❖ Multiethnic Placement Act (MEPA) which states that an agency cannot deny or delay a child’s placement due to race, color, ethnicity, or national origin of the foster parents.
- ❖ John H. Chaffee Act which created special provisions for older youth in foster care as they prepare to live independently.
- ❖ State statutes, like Ch. 48, the Children’s Code which governs child welfare services.
- ❖ Administrative rules, such as Ch. HFS 56, Adm. Code, the foster home licensing rule.
- ❖ Numbered Memos and Informational Memos

In addition to state and federal laws, each licensing agency establishes policies specific to their agency and practice needs. If you have questions about your agency's policies, ask your licensing worker or the child's case worker.

It is also important to know that Native American tribes are considered sovereign nations under federal law. Some tribes use state licensing codes to govern their foster homes while others have standards established specific to tribal policy. Foster parents licensed by a tribe should work with the tribal agency to find out the tribe's specific policies.

Chapter 1: Key Points to Remember:

- ❖ Placement in foster care is intended to be temporary while birth families are provided with time to make changes necessary for the child to live safely back in his/her home.
- ❖ While the families involved in the system start out with similarities, out of home placement can occur due to basically two reasons: Child Protection or Juvenile Delinquency.
- ❖ Permanency planning is the process that the case worker goes through to ensure that children are in safe and nurturing family relationships that can be expected to last a lifetime.
- ❖ The most common ways children in foster care achieve permanence are through reunification, placement with relatives, guardianship, and adoption.
- ❖ The best long-term plan for children is to return to their birth families if their families can safely care for them
- ❖ All people working with the child should be focused on the child's safety, permanence, and well-being while each fulfills their unique role.
- ❖ In addition to state and federal laws, each licensing agency establishes policies specific to their agency and practice needs.
- ❖ Native American tribes are considered sovereign nations under federal law and therefore may establish foster home licensing policies unique to their tribe.